United Nations S/AC.44/2014/1

Security Council

Distr.: General
13 January 2014
English
Original: English/Russian

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 9 January 2014 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to forward herewith the information on Ukraine's implementation of the provisions of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 9 January 2014 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

Ukraine State Export Control Service: scope of responsibility

Activities carried out in Ukraine under paragraph 1 of Security Council resolution 1540 (2004)

As an independent country, Ukraine is an active participant in establishing and developing a worldwide and regional European security system. A crucial element of that system is State export control of military, dual-use and other goods, including those that could be used for the production of weapons of mass destruction and their means of delivery.

In accordance with its official non-aligned status, Ukraine fosters the establishment of reliable international export control mechanisms at the bilateral, regional and global levels, engaging with States and international organizations according to the principles of mutual understanding, openness and partnership.

An effective national export control system is in place in Ukraine to carry out activities under paragraph 1 of resolution 1540 (2004). The appropriate regulatory framework also exists.

Alignment of the legislative framework of Ukraine with paragraph 2 of Security Council resolution 1540 (2004)

At the international level, Ukraine, a subject of international law, is meeting its international obligations by bringing its national export control procedures into line with those obligations. The primary sources of international export control law include the relevant Security Council resolutions and other United Nations instruments; treaties and agreements to which Ukraine is party within the context of the Organization for Security and Cooperation in Europe and the Commonwealth of Independent States; Ukraine's obligations as part of its cooperation with the European Union, the Customs Union of the Eurasian Economic Community and the North Atlantic Treaty Organization (NATO); and bilateral and other international treaties and agreements to which Ukraine is party, including the export control regime instruments of the Wassenaar Arrangement, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime and the Australia Group.

At the national level, the Verkhovna Rada (Parliament) of Ukraine enshrines export control procedures in law. The Act on State control of international transfers of military and dual-use goods of 20 February 2003 is the primary instrument in that domain. The Act governs activity related to State control of international transfers of military and dual-use goods to ensure the protection of Ukrainian national interests; compliance with international obligations on non-proliferation of weapons of mass destruction and their means of delivery, as well as with limits on conventional weapons transfers; and work to prevent the use of these goods for terrorist or other unlawful purposes.

The legal framework in Ukraine is realigned on an ongoing basis, as the country's relevant international export control obligations undergo changes based on national interests.

Activities carried out in Ukraine under paragraph 3 (d) of Security Council resolution 1540 (2004)

At the national level, the State Export Control Service performs export control within the limits of its authority; in that context, in accordance with paragraph 3 (d) of resolution 1540 (2004), there is oversight of compliance with the relevant laws and regulations for the control of export, transit, trans-shipment and re-export, as well as oversight of funding and services related to such export.

Under Presidential Decree No. 448 of 8 April 2011 on the State Export Control Service, the Cabinet of Ministers manages and coordinates the Service's activities through the Ministry of Economic Development and Trade.

The primary tasks of the State Export Control Service, including those aimed at implementing paragraph 3 (d) of resolution 1540 (2004), are the following:

- Implementing national policy on State control of international transfers of military and dual-use goods and other goods that are not subject to State export control but to which, by law, State export control procedures may be applied.
- Making proposals for the design of national policy on State control of international transfers of goods.
- Protecting national interests and complying with international obligations related to non-proliferation of weapons of mass destruction and their means of delivery; to limitations on transfers of conventional weapons; and to prevention of the use of conventional weapons for terrorist and other unlawful purposes.
- Supporting international cooperation and engagement with the appropriate agencies of foreign States and international organizations on matters of non-proliferation and export control.

National export control coordination mechanisms in Ukraine

The State export control system in Ukraine is the primary mechanism for coordinating interaction among the executive agencies of Ukraine on joint activities to ensure appropriate State control of international transfers of goods in accordance with international obligations arising out of the country's adherence to international export control regimes.

A primary component of the system referred to is the work of the State Export Control Service, which, within the limits of its powers, participates jointly with stakeholder agencies in developing legislative and regulatory acts governing export control activity and also organizes and monitors their implementation.

Initiatives, programmes, tools and public information under paragraph 8 (d) of Security Council resolution 1540 (2004)

The State export control system and the relevant regulatory framework, which are aligned with paragraph 8 (d) of resolution 1540 (2004), serve as an effective tool for working with industry and the public and keeping them informed.

Mechanisms for adopting and reviewing national control lists

Lists of goods subject to national oversight and the procedure for drawing up, monitoring and reviewing them come under the competency of the Cabinet of

Ministers, which approves the lists through its regulatory acts based on the Act on State control of international transfers of military and dual-use goods.

These regulatory acts include Cabinet of Ministers Decision No. 1807 of 20 November 2003 on approval of procedures for implementing State control of international transfers of military goods and Cabinet of Ministers Decision No. 86 of 28 January 2004 on approval of procedures for implementing State control of international transfers of dual-use goods. The lists of goods adopted under these decisions correspond to the lists of goods developed by the international export control regimes to which Ukraine is party, which are: the Wassenaar Arrangements, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime and the Australia Group.

Assistance, capacity-building and public awareness

Implementation of Security Council resolution 1540 (2004) by the State Export Control Service is based on the principles of openness and transparency and involves posting the relevant information on the Service website (http://www.dsecu.gov.ua) and in other media, including print outlets; producing and broadcasting radio and television programmes; and issuing specialized publications.

Information on the work of the State Export Control Service is provided to the public in accordance with national law.

Ukraine State Border Service: scope of responsibility

The State Border Service engages in counter-terrorism work, within its competencies, and, in cooperation with other national law enforcement bodies, combats terrorist threats by identifying and preventing attempts to cross the border illegally with weapons, explosives, poisons, radioactive substances and other items that could be used to commit terrorist acts. The Border Service contributes to the design and implementation of appropriate, effective border control activities and law enforcement measures to identify, halt, prevent and counteract illicit trafficking in and brokerage of such items, including through international cooperation, when necessary, in accordance with national legal regulatory frameworks and legislation consistent with international law.

The units of the State Border Service engage in the following:

- Investigations to identify attempts to bring illicitly trafficked radioactive materials across international borders.
- Searches of vehicles crossing international borders to detect radioactive materials.
- Detention of individuals and vehicles that circumvent checkpoints in an attempt to cross illegally into Ukraine.
- Preliminary inspections at the boundaries of controlled areas and implementation of the necessary security measures pending the arrival of expert services.
- Physical protection of radioactive materials withdrawn from illicit trafficking during illegal border crossings in areas without checkpoints until such materials are duly shipped to their proper destination.

Ukraine Ministry of Revenue and Duties: scope of responsibility

Activities carried out in Ukraine under paragraph 1 of Security Council resolution 1540 (2004)

The provisions on procedures for providing safeguards and implementing State oversight of obligations to use goods subject to State export control for declared purposes was approved by Cabinet of Ministers Decision No. 920 of 27 May 1999.

In accordance with paragraph 12 of the above provisions, the Ministry of Revenue and Duties generates and issues delivery confirmation certificates, which are State documents confirming that the good mentioned therein was imported to Ukraine and is subject to the export control regime of Ukraine.

Activities carried out in Ukraine under paragraph 3 (d) of Security Council resolution 1540 (2004)

In accordance with article 21 of Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods, customs clearance and control are governed by the procedure set out in the Customs Code.

In accordance with article 197 of the Customs Code, there are, in certain cases provided for by law, restrictions on the movement of particular goods through Ukrainian customs checkpoints. Passage of such goods through Ukrainian customs and customs clearance are carried out by the revenue and duties agencies, on the basis of documents issued by the authorized State oversight agencies confirming compliance with the restrictions.

The Cabinet of Ministers approves the list of such goods as well as the procedure for issuing the relevant authorizations. Procedures for State control of international transfers of military goods were approved under Cabinet of Ministers Decision No. 86 of 21 January 2004. A control list of those goods with a detailed description of their specifications has been included in the annex to the procedures.

Under these procedures, economic operators may engage in international goods transfers if they have the appropriate authorization from the State Export Control Service.

In accordance with article 12 of the Act on State control of international transfers of military and dual-use goods, economic operators in Ukraine that plan to engage in international transfers of the goods mentioned above, including in an intermediary (broker) capacity for international transfers of military goods, register in advance with the central executive agency responsible for State export control policy (Ukraine Gosexportkontrol) as parties to an international goods transfer. The parties referred to submit to Gosexportkontrol the records and documents needed for a preliminary expert assessment of the goods. Following the assessment, Gosexportkontrol identifies the goods, determines the requirements governing international transfers to a particular country, based on the category of good and how international transfers of such goods are carried out, etc., and confirms with the parties to the operation that they are registered parties to (participants in) international goods transfers. Gosexportkontrol also provides any relevant clarifications regarding specific aspects of such transfers.

Military and dual-use goods undergo customs processing based on the submission of Gosexportkontrol authorization documents to the revenue and duties agency.

Ukraine State Security Service: scope of responsibility

In order to apply Security Council resolution 1540 (2004) and legislative acts of Ukraine, including Presidential Decree No. 73/2013 of 11 February 2013 on the national plan to implement the Seoul Communiqué of the 2012 Seoul Nuclear Security Summit for the period 2013-2014, the Security Service carries out measures, within its competence, to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery.

To that end, in 2013, the Security Service conducted regular activities to cut off possible routes for the transfer of weapons of mass destruction through the territory of Ukraine and provide safe transit of depleted nuclear fuel across our country from countries of the European Union to the Russian Federation, and also held a number of counter-terrorism drills at nuclear power facilities.

Ukraine Ministry of Internal Affairs: scope of responsibility

Under the current legislation, Ministry of Internal Affairs internal security forces are tasked with providing security and protection for key State facilities, including nuclear installations and nuclear materials subject to the national system for the physical protection of nuclear installations and materials.

Ukraine Armed Forces: scope of responsibility

There are currently no provisions in Ukrainian law covering participation by the armed forces in activities related to the manufacture, acquisition, possession, stockpiling, transport, transfer or use of nuclear, chemical or biological weapons or their means of delivery.

The armed forces are also involved in international cooperation and export control, within their competence, related to the prevention of unlawful trafficking in materials that could be used to develop or produce weapons of mass destruction (specific types of materials, chemical substances and bacteriological, biological and toxic agents) for military or terrorist purposes.

The armed forces have no nuclear, chemical or biological weapons in their arsenal or in stockpiles.

However, sources of ionizing radiation are used in certain armed forces equipment and weapons, and their use and storage is in compliance with the Radiation Safety Standards of Ukraine (DGN 6.6.1-6.5.001-97) and the State Health Rules (DSP 6.074.120-05).

The disposal of radioactive waste (sources of ionizing radiation whose service life has expired) is handled exclusively at the specialized facilities of RADON, a state-owned corporation.

The following regulatory acts and administrative instructions govern these activities of the armed forces:

- Act No. 40/95 of 8 February 1995 on nuclear energy use and radiation safety
- Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods
- Act No. 81/96 of 6 March 1996 on environmental protection
- Act No. 736/97 of 17 December 1996 on ratifying the Convention on Nuclear Safety
- Act No. 187-XIV of 16 October 1998 on ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention)
- Act No. 1688-III of 20 April 2000 on ratifying the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management
- Cabinet of Ministers Decision No. 847 of 4 August 1997 on establishing a State registry of sources of ionizing radiation
- Cabinet of Ministers Decision No. 1718 of 16 November 2000 on some issues of State regulation of activity involving sources of ionizing radiation
- Cabinet of Ministers Decision No. 1807 of 20 November 2003 on adopting procedures for State control of international transfers of military goods
- Cabinet of Ministers Decision No. 86 of 28 January 2004 on adopting procedures for State control of international transfers of dual-use goods
- Cabinet of Ministers Decision No. 406 of 16 March 1999 on procedures for establishing a nationwide monitoring and accounting system for individual doses of radiation exposure
- National Security and Defence Council decision of 13 October 2009 on safeguarding national interests in the area of nuclear energy use, adopted under Presidential Decree No. 1062-38t of 16 December 2009
- Minister of Defence Decree No. 106 of 6 May 1995 on organizing individual radiation dosimetric monitoring and benefits for observers
- Minister of Defence Decree No. 279 of 9 September 1999 on approving instructions for procedures for verifying (inspecting) and assessing environmental safety in the armed forces
- Ministry of Health Decree No. 54 of 2 February 2005 on adopting basic health standards for radiation safety
- National basic health standards for radiation protection (DSP 6.074.120-01) No. 552/10832, registered with the Ministry of Justice on 20 May 2005
- Chief Medical Officer/First Deputy Minister of Health Decision No. 62 of 1 December 1997 on the implementation of State hygiene regulations

United Nations S/AC.44/2014/2

Security Council

Distr.: General
3 March 2014

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 26 February 2014 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Chair of the Committee

I am writing to you in your capacity as Chair of the Committee established pursuant to Security Council resolution 1540 (2004) and have the honour to submit the national implementation report by the Republic of Azerbaijan (see annex).

The report contains information that has been updated since the submission of Azerbaijan's previous report, in April 2006 (S/AC.44/2004/(02)/66/Add.1), including on further national measures for improving legislation and national practices and their implementation; enhancing capacities of law enforcement and judicial authorities in their counter-proliferation efforts; and strengthening international cooperation.

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Annex to the letter dated 26 February 2014 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Chair of the Committee

Revised report of the Republic of Azerbaijan on the implementation of Security Council resolution 1540 (2004)

1. The present report provides updated and revised information on the implementation of Security Council resolution 1540 (2004) by the Republic of Azerbaijan since the previous report was submitted to the Committee, in April 2006. It includes further national measures on improving legislation and national practices and their implementation; enhancing capacities of law enforcement and judicial authorities in their efforts to fight against proliferation-related activities; and strengthening international cooperation.

Introduction

2. Since regaining its independence, Azerbaijan has been supporting and contributing to global efforts aimed at promoting peace and security, including non-proliferation activities. The national security concept of the Republic of Azerbaijan describes the proliferation of weapons of mass destruction as one of the key security challenges, which was reaffirmed in the recently adopted Maritime Security Strategy.

3. Azerbaijan's sensitive and complex geographic location requires it to establish and maintain effective control systems and carry out vigilant measures to curb illegal trafficking and proliferation activities. Owing to the continuing Armenian military occupation of one fifth of the internationally recognized territories of Azerbaijan, which provides fertile conditions for illicit trafficking activities, Azerbaijan will be unable to guarantee the implementation of the resolution in those occupied territories until the occupation has ended and Azerbaijan has restored its territorial integrity.

4. Azerbaijan endorsed the Statement of Principles and joined the Global Initiative to Combat Nuclear Terrorism in 2012. Azerbaijan ratified the International Convention for the Suppression of Acts of Nuclear Terrorism with law No. 725-IIIQ of 2 December 2008. Azerbaijan is also a State party to the Convention on the Physical Protection of Nuclear Material.

Legislation

5. Azerbaijan takes all necessary efforts to maintain an effective export control system in order to prevent illegal activities relating to arms and military and dual-use goods, including the proliferation of weapons of mass destruction, their means of delivery and related materials. The export control system of the Republic of Azerbaijan is aimed at ensuring national security interests and implementing obligations emanating from international non-proliferation agreements to which the Republic of Azerbaijan is a party. The export control system of the Republic of Azerbaijan also recognizes the role of the Security Council in imposing embargoes and other restrictions.

6. In September 2013, the President of the Republic of Azerbaijan endorsed Azerbaijan's first Maritime Security Strategy. This document delineates the roles and responsibilities of the relevant national authorities in ensuring maritime security and addressing maritime threats described in the Strategy. According to the Strategy, the proliferation of nuclear and other weapons of mass destruction, their means of delivery and related materials is one of the key threats (both internal and external) against maritime security. The Strategy also identifies rules for conducting coordination and interaction, the exchange of information, risk assessment, cooperation with littoral countries, and other pertinent issues.

7. Since the previous report, the penal legislation of the Republic of Azerbaijan has been amended and a new section 15.2, on punitive measures applicable to legal persons, has been added to the Criminal Code. These measures include imposing a fine, the special confiscation of property, depriving the offending legal entity from exercising certain activities, and the liquidation of a legal entity. These measures may be applied to those entities that commit the offences described in the following articles of the Criminal Code: 144.1 (human trafficking), 144.2 (forced labour), 193.1 (fraudulent entrepreneurship), 194 (managing illegal financial resources), 214 (terrorism), 214.1 (financing terrorism), 271-273 (information technology crimes), 308 (abuse of official powers), 311 (taking bribes), 312 (offering bribes), 312.1 (trade of influence), 313 (forging documents/resources) and 316.1 and 316.2 (violation of confidentiality). These offences may be prosecuted if they are committed by a competent individual entitled to represent or make a decision on behalf of the entity, by an individual supervising the entity's activities and, in some cases, by its employees.

8. The Republic of Azerbaijan has revised its appropriate legislation and adopted additional normative acts to regulate more efficiently the control of strategic goods (see enclosure).

Enforcement and control

9. By supporting bilateral and international cooperation mechanisms and using national resources, relevant State authorities enhanced their capacities and physical protection measures to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery and related materials, and improved inter-agency cooperation to strengthen control over related materials.

10. The State Customs Committee and State Border Service continued to modernize their equipment that supports communications, mobility and data exchange capabilities. Customs inspection posts were provided with static and mobile facilities to enhance screening capacities for the monitoring of goods and vehicles, dual-use goods and technology related to weapons of mass destruction and relevant materials. Additional steps were taken to improve the training of personnel on preventing the trafficking of components of weapons of mass destruction and dual-use goods.

11. Additional measures were taken to improve border security. Border posts and Coast Guard units were provided with short- and long-range communications, video surveillance systems, night-vision equipment, additional vehicles and coastal surveillance radar. In support of nuclear security and detection capabilities, including for combating the illicit trafficking of nuclear and other radioactive materials, border checkpoints were upgraded and provided with surveillance equipment and portable radiation control devices. The border equipment

modernization was conducted in accordance with the State Programme on the Technical Development of the Border Protection System, implemented in the period 2006-2010.

12. National control over the items referred to in the resolution has been established and implemented in accordance with the Export Control Law of 2004 and the control list approved by the Cabinet of Ministers in February 2006. The list is based on the European Union control list, and its further harmonization with the European Union list is currently under way.

13. In accordance with the decree of the Cabinet of Ministers on measures for the further strengthening of radiation safety control in the Republic of Azerbaijan, each government or private entity is required to make an inventory of radioactive and other ionizing radiation materials and provide reports to the relevant authorities, including the Ministry of Emergency Situations. At present, the State Agency on Nuclear and Radiological Activities Regulation (SANRAR), under the Ministry of Emergency Situations, is the key governmental body responsible for making inventories and State registers; regulating and licensing activities related to the use of ionizing radiation sources; and ensuring radiation protection and inspection of the relevant sites.

14. In the fight against terrorism, Azerbaijan has taken additional steps to enhance inter-agency training and cooperation. Azerbaijan has also taken steps to improve the training of personnel on preventing the trafficking of components of weapons of mass destruction and dual-use goods.

International cooperation

15. In April 2011, Azerbaijan hosted a North Atlantic Treaty Organization (NATO)/ Euro-Atlantic Partnership Council (EAPC) workshop on the implementation of Security Council resolution 1540 (2004). Representatives of the EAPC countries participated and held discussions on topics such as best practices and new methods for effective customs control and screening procedures; lessons learned regarding the implementation of resolution 1540 (2004) by EAPC countries; and possibilities for enhanced practical cooperation among national customs and border agencies.

16. In April 2013, Azerbaijan hosted the Organization for the Prohibition of Chemical Weapons (OPCW) regional training course for customs authorities on technical aspects of the transfers regime of the Chemical Weapons Convention. The training course focused on the handling of scheduled chemicals and the engagement between customs and national authorities, its practical impact on the implementation of the transfers regime of the Convention and its role in diminishing and eventually eliminating discrepancies between the quantities of scheduled chemicals declared by importing and exporting States parties in respect of the same transfers.

17. Azerbaijan organized a number of seminars at the Regional Office for Capacity-Building of the World Customs Organization in Baku.

18. Azerbaijani officials participated in and contributed to workshops and other events on resolution 1540 (2004) and export control courses held with the support of the European Union, NATO, the Organization for Security and Cooperation in Europe and national institutions in numerous countries.

Enclosure

National legislation system of the Republic of Azerbaijan applicable to the purposes of Security Council resolution 1540 (2004)

- Constitution of the Republic of Azerbaijan of 1995
- Civil Code of the Republic of Azerbaijan (Act No. 779-IQ of 28 December 1999)
- Criminal Code of the Republic of Azerbaijan (Act No. 787-IQ of 30 December 1999)
- Code of Administrative Offences of the Republic of Azerbaijan (Act No. 906-IQ of 11 July 2000)
- Customs Code of the Republic of Azerbaijan (Act No. 164-IVQ of 24 June 2011)
- Law of the Republic of Azerbaijan on service and civil weapons (Act No. 442-IQ of 30 December 1997)
- Law of the Republic of Azerbaijan on export control (Act No. 772-IIQ of 26 October 2004)
- Decree of the President of the Republic of Azerbaijan on the approval of guidelines on regulating import-export operations in the Republic of Azerbaijan (Act No. 609 of 24 June 1997)
- Decree of the President of the Republic of Azerbaijan on measures for improving the licensing of certain types of entrepreneurship in the Republic of Azerbaijan (Act No. 310 of 28 March 2000)
- Decree of the President of the Republic of Azerbaijan on the approval of guidelines on the import of service and civil weapons to, and export from, the Republic of Azerbaijan and guidelines on the sale of service and civil weapons in the territory of the Republic of Azerbaijan (Act No. 769 of 24 August 2002)
- Decree of the President of the Republic of Azerbaijan on additional measures for regulating the turnover of articles restricted from civil circulation (Act No. 292 of 12 September 2005)
- Other normative acts approved by the decision of the Cabinet of Ministers of the Republic of Azerbaijan (Act No. 230 of 15 December 2005):
  - Export control regimes of goods (works, services, results of intellectual activities) subject to export control for certain States
  - Guidelines on the implementation of export control
  - The list of State agencies involved in verification prior to and after granting special permission (licence); exercising control over the use of dual-use goods in conformity with declared purposes; carrying out export control and granting special permission for goods, subject to export control, in accordance with their nomenclature; as well as works, services and results of intellectual activities in accordance with their category and section as envisaged in the legislation

- Guidelines on granting special permission on goods (works, services, results of intellectual activities) subject to export control
- Guidelines of verification prior to and after granting special permission for foreign economic activities over goods (works, services and results of intellectual activities) subject to export control
- Guidelines on exercising control over the use of dual-use goods (works, services and results of intellectual activities) in accordance with declared purposes

• Decision of the Cabinet of Ministers of the Republic of Azerbaijan on approval of the list of goods subject to export control, as well as works, services and results of intellectual activities by their codes in accordance with their nomenclature (Act No. 42 of 9 February 2006)